

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SYNTACTX, LLC,

Plaintiff,

vs.

COMPLAINT

COMPANIONDX REFERENCE LAB, LLC,

Index No.: 16-CV-1283

Defendant.

Plaintiff, Syntactx, LLC (“Plaintiff”), by and through its attorneys, Woods Oviatt Gilman, LLP, for its Complaint against defendant CompanionDx Reference Lab, LLC (“Defendant”) herein alleges as follows:

PRELIMINARY STATEMENT

1. This is an action to recover payment for services rendered by Plaintiff to Defendant pursuant to a Master Agreement for Clinical Research Services, effective December 5, 2013 (“MSA”), and Worker Order Scope of Services and Pricing, effective June 23, 2015 (“Work Order”). Pursuant to said MSA and Work Order, Plaintiff delivered valuable services to Defendant which were accepted without complaint, entitling Plaintiff to payment for those services in the amount of \$119,806.25 together with interest running from November 1, 2015.

JURISDICTION, PARTIES AND VENUE

2. This Court has original subject matter jurisdiction over this action pursuant to 28 USC §1332 as Plaintiff and Defendant are, respectively, a citizen of the State of New York and,

upon information and belief, the State of Texas, and the matter in controversy, as described herein, exceeds the sum of \$75,000, exclusive of costs and interest.

3. Plaintiff is a Limited Liability Company formed under the laws of New York State with its principal place of business located at 4 World Trade Center, 150 Greenwich Street, 44th Floor, New York 10006.

4. Plaintiff has four members, Kenneth Ouriel, David Ouriel, Richard Ouriel and Elizabeth Ouriel, all of whom are citizens of New York State. None of Plaintiff's members are citizens of the State of Texas.

5. Upon information and belief, Defendant is a limited liability company formed under the laws of the State of Texas with a principal place of business located at 10301 Stella Link Road, Suite C, Houston, Texas 77025.

6. The composition of Defendant's membership is currently unknown to Plaintiff. However, upon information and belief, none of Defendant's members are citizens of the State of New York.

7. Defendant is subject to the specific jurisdiction of this Court pursuant to New York Civil Practice Law and Rules §302 in that, among other things, Defendant has conducted business in New York State such that a substantial part, if not all, of the conduct and events giving rise to the claims set forth in this complaint occurred within the State of New York.

8. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this judicial district and Defendant is subject to this Court's personal jurisdiction.

FACTS COMMON TO ALL CLAIMS

9. Plaintiff as "CRO," and Defendant, as "Company," entered into the MSA, effective December 5, 2013.

10. Pursuant to MSA Section 1.1, Plaintiff was to provide services to Defendant in accordance with certain "Work Orders" to be entered into by the parties. On or about June 23, 2015, the parties entered the Work Order, effective June 23, 2015 through June 30, 2019.

11. Pursuant to MSA Section 2.1 as well as the Work Order, Defendant promised to pay Plaintiff for services rendered and invoiced to Defendant.

12. Plaintiff thereafter performed valuable services for Defendant and Defendant thereafter accepted those services all in accordance with the terms of the MSA and Work Order.

13. Pursuant to the terms of the MSA and Work Order, Plaintiff issued various invoices to Defendant, seeking payment for the valuable services delivered to and accepted by Defendant. Those invoices included, without limitation, the following:

- a. Invoice Number 116000503, dated November 1, 2015, in the amount of \$706.25;
- b. Invoice Number 116000513, dated November 1, 2015, in the amount of \$66,600.00;
- c. Invoice Number 116000549, dated November 1, 2015, in the amount of \$12,500.00;
- d. Invoice Number 116000557, dated December 1, 2015, in the amount of \$20,000; and
- e. Invoice Number 116000621, dated December 31, 2015, in the amount of \$20,000.00.

The above-referenced invoices are hereinafter referred to as the “Outstanding Invoices.” Copies of the Outstanding Invoices are annexed hereto as **Exhibits A**.

14. The Outstanding Invoices reflect a total amount due for services delivered to Defendant in the amount of \$119,806.25 exclusive of interest.

15. The Outstanding Invoices were duly transmitted to Defendant, but have not been paid by Defendant despite due demand therefor.

AS AND FOR A FIRST CAUSE OF ACTION

16. By way of the MSA and Work Order, Plaintiff and Defendant entered into valid and binding agreements.

17. Plaintiff fully performed all of its obligations under the MSA and Work Order and its services were accepted by Defendant.

18. Defendant has breached the MSA and Work Order by failing and refusing to pay the full amount owed under the Outstanding Invoices despite due demand having been made therefor.

19. A balance of \$119,806.25 remains due and owing.

20. By reason of Defendant's breach, Plaintiff has been damaged in the amount of \$119,806.25.

AS AND FOR A SECOND CAUSE OF ACTION
IN THE ALTERNATIVE

21. By way of the Outstanding Invoices, an account stated was presented to Defendant.

22. Defendant accepted the services performed by Plaintiff as reflected on the Outstanding Invoices and further accepted the Outstanding Invoices as correct and without objection.

23. Pursuant to the MSA, Work Order, the parties' course of dealing and otherwise, Defendant promised to pay the Outstanding Invoices.

24. Accordingly, by reason of the account stated, Plaintiff is entitled to payment from

Defendant in the amount of \$119,806.25.

AS AND FOR A THIRD CAUSE OF ACTION
IN THE ALTERNATIVE

25. Plaintiff was asked to perform services by Defendant.
26. Plaintiff performed those services in good faith.
27. Defendant accepted and retained those services and had no objection thereto.
28. There was an agreement between the parties and an expectation that Plaintiff would be compensated for the services that it performed.
29. The services that Plaintiff performed on behalf of Defendant are of the fair and reasonable value of not less than \$119,806.25 all of which has not been paid to Plaintiff.
30. As a result of the foregoing, Plaintiff has been damaged and Defendant is indebted to Plaintiff in an amount of not less than \$119,806.25.

AS AND FOR A FOURTH CAUSE OF ACTION
IN THE ALTERNATIVE

31. Pursuant to the agreement of the parties, Plaintiff agreed to perform services for Defendant.

32. Defendant accepted those services without objection thereto.

33. Pursuant to the agreement of the parties, it was agreed that Plaintiff would be compensated for the services that it performed for Defendant.

34. Plaintiff fully performed all services agreed upon by the parties.

35. The fair and reasonable value of the services performed by Plaintiff is not less than \$119,806.25 and that balance remains due and owing to Plaintiff.

36. Defendant has been unjustly enriched in that it has accepted and retained the benefit of the services performed by Plaintiff, but has not paid the fair and reasonable value of Plaintiff's services.

37. As a result, Plaintiff has been damaged in an amount not less than \$119,806.25.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

1. On the First Cause of Action, in the amount of \$119,806.25 together with interest from November 1, 2015;

2. On the Second Cause of Action, in the amount of \$119,806.25 together with interest from November 1, 2015;

3. In the alternative, on the Third Cause of Action in the Alternative, in the amount of \$119,806.25 together with interest from November 1, 2015;

4. In the alternative, on the Fourth Cause of Action in the Alternative, in the amount of \$199,806.25 together with interest from November 1, 2015;

5. Interest, costs, disbursements and the attorneys' fees of this action;

6. Such other and further relief as the Court deems just and proper.

Dated: February 18, 2016

WOODS OVIATT GILMAN LLP

By: /s/: Brian J. Capitummino
Brian J. Capitummino, Esq.
Warren B. Rosenbaum, Esq.
Admission Pending
F. Michael Ostrander, Esq.
Attorneys for Plaintiff
700 Crossroads Building
Rochester, New York 14614
585-987-2800

EXHIBIT A



7 World Trade Center
250 Greenwich Street, 46th Floor
New York, NY 10007-0007
Tel: (212) 266-0135
Fax: (646) 375-3183
accounts@syntactx.com
www.syntactx.com

David Lasecki
CompanionDx
7000 Fannin Street, Suite 1880A
Houston, TX 77030

Invoice

Invoice Date: November 01, 2015
Invoice No: 116000503
Due Date: December 01, 2015
Payment Terms: 30 Days
Customer ID: C100007
Customer Ref:
Project Code: 10008
Project Name: UPGRADE

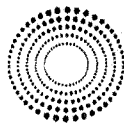
Invoice Total: \$ 706.25
Paid Amount: \$ 0.00
Total Due: \$ 706.25

Item no.	Item name	Description	Units	Rate	Total \$
Unit Based					
I00008	Completed eCRF	Primecare Medical Payment - 113 Samples (Single Payment)	113.00	6.25	706.25
					\$ 706.25

Total Tax: 0.00
Total Due: **706.25**

Payment Details:

BANK : JPM Chase - Checkings
SWIFT : CHASUS33
ROUTING : 2100021
ACCOUNT : 882921539



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7000 Fannin Street, Suite 1880A
Houston, TX 77030

Invoice

Invoice Date: November 01, 2015
Invoice No: 116000513
Due Date: December 01, 2015
Payment Terms: 30 Days
Customer ID: C100007
Customer Ref:
Project Code: 10007
Project Name: UPGRADE Project

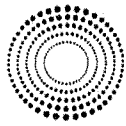
Invoice Total: \$ 66,600.00
Paid Amount: \$ 0.00
Total Due: \$ 66,600.00

Item no.	Item name	Description	Units	Rate	Total \$
<u>Unit Based</u>					
I00022	Electronic Data Capture Maintenance	UPGRADE EDC Maintenance and Support	1.00	7,500.00	7,500.00
I00159	Site Close-Out	Close Out of 197 sites	197.00	300.00	59,100.00
					\$ 66,600.00

Total Tax: 0.00
Total Due: 66,600.00

Payment Details:

BANK : JPM Chase - Checkings
SWIFT : CHASUS33
ROUTING : 2100021
ACCOUNT : 882921539



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Rey Stroube
CompanionDx
7000 Fannin Street, Suite 1880A
Houston, TX 77030

Invoice

Invoice Date: November 01, 2015
Invoice No: 116000549
Due Date: December 01, 2015
Payment Terms: 30 Days
Customer ID: C100007
Customer Ref:
Project Code: 10007
Project Name: UPGRADE Project

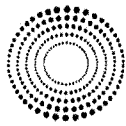
Invoice Total: \$ 12,500.00
Paid Amount: \$ 0.00
Total Due: \$ 12,500.00

Item no.	Item name	Description	Units	Rate	Total \$
<u>Unit Based</u>					
I00018	Data Management	Data Management	1.00	12,500.00	12,500.00
					\$ 12,500.00

Total Tax: 0.00
Total Due: 12,500.00

Payment Details:

BANK : JPM Chase - Checkings
SWIFT : CHASUS33
ROUTING : 2100021
ACCOUNT : 882921539



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7000 Fannin Street, Suite 1880A
Houston, TX 77030

Invoice

Invoice Date: December 01, 2015
Invoice No: 116000557
Due Date: December 31, 2015
Payment Terms: 30 Days
Customer ID: C100007
Customer Ref:
Project Code: 10007
Project Name: UPGRADE Project

Invoice Total: \$ 20,000.00
Paid Amount: \$ 0.00
Total Due: \$ 20,000.00

Item no.	Item name	Description	Units	Rate	Total \$
<u>Unit Based</u>					
100018	Data Management	UPGRADE Data Managment	1.00	12,500.00	12,500.00
100022	Electronic Data Capture Maintenance	UPGRADE EDC Maintenance and Support	1.00	7,500.00	7,500.00
					\$ 20,000.00

Total Tax: 0.00
Total Due: 20,000.00

Payment Details:

BANK : JPM Chase - Checkings
SWIFT : CHASUS33
ROUTING : 2100021
ACCOUNT : 882921539



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Invoice

Invoice Date: December 31, 2015
Invoice No: 116000621
Due Date: January 30, 2016
Payment Terms: 30 Days
Customer ID: C100007
Customer Ref:
Project Code: 10007
Project Name: UPGRADE Project

Invoice Total: \$ 20,000.00
Paid Amount: \$ 0.00
Total Due: \$ 20,000.00

Item no.	Item name	Description	Units	Rate	Total \$
Unit Based					
I00018	Data Management	UPGRADE Data Managment	1.00	12,500.00	12,500.00
I00022	Electronic Data Capture Maintenance	UPGRADE EDC Maintenance and Support	1.00	7,500.00	7,500.00
					\$ 20,000.00

Total Tax: 0.00
Total Due: 20,000.00

Payment Details:

BANK : JPM Chase - Checkings
SWIFT : CHASUS33
ROUTING : 2100021
ACCOUNT : 882921539